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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,051	01/15/2000	MICHAEL J. PICCIALLO	P-22425-B-US	1136

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EXAMINER

CAMPEN, KELLY SCAGGS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/478,051

Applicant(s)

PICCIALLO, MICHAEL J.

Examiner

Kelly Campen

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-110 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 75-110 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3624

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 3, and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed method consists solely of the manipulation of an abstract idea and is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. In addition, the claim is devoid of any limitation to a practical application in the technological arts. The invention in the **body** of the claim must recite technology. If the invention, in the body of the claim, is not tied to technological art, environment, or machine, the claim is not statutory (see *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001). Also note MPEP 2106 IV 2(b). Examiner notes that this is not a precedential decision but it is being cited for its analysis of whether the claim is in the technological arts.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 75-110 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3624

Claims 75, 88 and 99 recite that the 3rd party account is either a bank or credit card account. Claims 75 and 88 recite specifically that there is a “transferring of funds” into the “third party account”. How exactly is this being accomplished if the account is a “credit card account”? Does this mean that the fund depositor’s account is paying the 3rd party’s credit card bill? It doesn’t seem so since the point of the invention is to allow the 3rd party “access” to the 3rd party account’s funds (i.e., “transferring of funds” provides the financial basis of the 3rd party account).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 88 is rejected under 35 U.S.C. 102(b) as being anticipated by Gray (LA Times 1993).

The claim recites a spending or sub-account created from a master account accessible by an authorized user. Gray discloses that it is old and well known to open child accounts with their own checkbooks and ATM cards while the child’s accounts are linked to parents’ accounts to make periodic automatic deposits.

Claim 88 is rejected under 35 U.S.C. 102(b) as being anticipated by Tannenbaum (5326960) discloses a currency transfer system that automatically transfers funds from a

Art Unit: 3624

master/sponsor account to sub accounts on a periodic basis, there the sub accounts are accessible by 3rd parties (col. 12, lines 62-68, col. 14, lines 36-40).

“Financially dependent” does not only mean a “minor child” or one of no income as argued by the applicant. If so, the applicant should amend the claims to recite such a class of persons. In the claimed invention, any 3rd party drawing on the account is financially dependent because the account is linked to the master account. The class of persons is irrelevant to patentability since who actually uses the account does not change the recited methodology. The affiliation of the persons using the account is irrelevant – it is the method of setting up the relationship of the accounts that gets weight. By virtue of the 3rd party account being set up with a link to the master inherently implies that the person accessing it is financially dependent on the depositor. If not, why have a 3rd party account to begin with? An employee who draws on the corporate spending account on business, for instance, is financially dependent on the employer as long as he/she accesses the funds from the spending account. It is irrelevant that the employee has a salary and may have money in his personal bank account. Therefore, for the purposes of claim 88, any 3rd party account is a financial dependent on the holder of the main account by having access to the account.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3624

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 75 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (LA Times 1993) in view of Lubinger (The Plain Dealer 1995) further in view of Tannenbaum (US 5325960).

Claim 99 is the same method as that of claim 88 with the difference being that instead of the “periodic and automatic” fund transfer step, claim 99 recites storing and supplying “fund transferee” information and corresponding payment amounts from the 3rd party account. “Transferee” typically means the “recipient” of a transfer (opposed to a “transferor” who is the person “initiating” the transfer). Claim 99 recites only one “transfer” that occurs, one initiated by the 3rd party for either a cash withdrawal or a payment for goods or services. In the latter transaction (payment), the vendor would be the transferee. IN the former transaction, however (cash withdrawal), the 3rd party is both the transferor and the transferee (the 3rd party initiates the withdrawal and receives the transfer). Therefore, it can be reasonably said that the “fund transferee” information being supplied to the fund depositor can be just a transaction statement of the 3rd party account that shows the typical month bank activity statements that may not necessarily

Art Unit: 3624

show the name of the vendor (although almost all bank statements show who cashed the check and/or accessed the debit card).

Gray teaches that child bank accounts linked to parent's bank accounts were well known but does not teach who gets the monthly statements. Lubinger teaches that parents can establish a checking account, make deposits in it, allows the child to use the debit card on the account, and get statements mailed to them (the parents) to track the usage. Either one of these references can be the primary reference but it is evident that it would have been obvious to one of ordinary skill in the art to have used automatic deposit in the situation described by Lubinger based on Gray or it would have been obvious to provide the monthly statements of the child's account to the parents in Gray based on Lubinger to allow the parents to monitor the proper account of their children.

Tannenbaum does not specifically teach that the sponsor is given the statement of the sub account activity. However, given that the totality of the sub accounts make up the main account and the main account is owned and maintained by the sponsor, it would have been obvious to one of ordinary skill in the art to provide the transaction activity statements to the sponsor since the sub account users are given a receipt after each transaction.

Claim 75 is the narrowest claim. It combines the steps of 88 and 99. Therefore the same argument applies as explained above for claim 99 since all the recited limitations are taught by all the references.

Claim 88 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gray (LA Times 1993). See above citations for specific reasoning.

Art Unit: 3624

Claim 88 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tannenbaum (5326960). See above for specific citation and reasoning.

Response to Amendment

Applicant should resubmit a waiver of communication via email to allow email correspondence.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Campen whose telephone number is (703) 308-0780. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3624



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